

Adopted	Rejected
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COMMITTEE REPORT

YES:	22
NO:	3

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred Senate Bill 79, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
 2 "SECTION 1. IC 6-3.5-7-1.2 IS ADDED TO THE INDIANA CODE
 3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 4 1, 2001]: **Sec. 1.2. As used in this chapter, "apportioned net**
 5 **income" means a taxpayer's net income multiplied by:**
 6 **(1) the assessed value of all property of the taxpayer that is:**
 7 **(A) taxable under IC 6-1.1; and**
 8 **(B) located in the county; divided by**
 9 **(2) the assessed value of all property of the taxpayer that is:**
 10 **(A) taxable under IC 6-1.1; and**
 11 **(B) located in Indiana.**
 12 SECTION 2. IC 6-3.5-7-4.4 IS ADDED TO THE INDIANA CODE
 13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2001]: **Sec. 4.4. As used in this chapter, "net income" means the**

following:

(1) In the case of a corporation subject to taxation under IC 6-3-8, the corporation's taxable income (as defined in IC 6-3-1-3.5(b)).

(2) In the case of a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2), the corporation's total S corporation income reported on the taxpayer's Indiana S corporation income tax return for the year.

(3) In the case of a partnership, the partnership's total partnership income reported on the partnership's Indiana partnership return for the year, adjusted by:

(A) subtracting any income of the partnership that constitutes personal service income as defined in Section 1348(b)(1) of the Internal Revenue Code or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater; and

(B) adding the amount of deductions allowed to the partnership under Section 707(c) of the Internal Revenue Code in calculating its taxable income.

SECTION 3. IC 6-3.5-7-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. As used in this chapter, "pass through entity" means a:**

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2); or

(2) partnership.

SECTION 4. IC 6-3.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers and on the apportioned net income of taxpayers described in section 5.5 of this chapter. The entity that may impose the tax is:**

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is

in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), and (g), **and section 5.5 of this chapter**, the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), or (i), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%), **excluding any rate imposed under section 5.5 of this chapter**. Except as provided in subsection (g), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%), **excluding any rate imposed under section 5.5 of this chapter**.

(d) To impose the county economic development income tax **on county taxpayers**, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600). In addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%);

on county taxpayers; and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%),

excluding any rate imposed under section 5.5 of this chapter;

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%), **excluding any rate imposed under section 5.5 of this chapter**, if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%), **excluding any rate imposed under section 5.5 of this chapter.**

SECTION 5. IC 6-3.5-7-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5.5. (a) In addition to the county economic**

development income tax imposed on the adjusted gross income of county taxpayers under section 5 of this chapter, the county income tax council or the county council, as determined under section 5 of this chapter, may impose an economic development income tax for business personal property tax replacement purposes on the apportioned net income of corporations and pass through entities.

(b) The county economic development income tax may be imposed under this section at a rate of:

(1) not more than one and five-tenths percent (1.5%) of the apportioned net income of a corporation; and

(2) not more than five-tenths percent (0.5%) of the apportioned net income of a pass through entity.

(c) The county economic development income tax may be imposed under this section on corporations and pass through entities in the same manner that the county economic development income tax is imposed on county taxpayers under section 5 of this chapter.

SECTION 6. IC 6-3.5-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) The body imposing the tax may decrease or increase the county economic development income tax rate imposed upon the county taxpayers **under section 5 of this chapter** as long as the resulting rate does not exceed the rates specified in section 5(b) and 5(c) or 5(g) of this chapter. The rate imposed under this section must be adopted at one (1) of the rates specified in section 5(b) of this chapter. To decrease or increase the rate **imposed under section 5 of this chapter**, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County _____ increases (decreases) the county economic development income tax rate imposed upon the county taxpayers of the county from _____ percent (____%) to _____ percent (____%). This tax rate increase (decrease) takes effect July 1 of this year."

(b) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(c) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by

1 certified mail.

2 SECTION 7. IC 6-3.5-7-10 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) A special
 4 account within the state general fund shall be established for each
 5 county adopting the county economic development income tax. Any
 6 revenue derived from the imposition of the county economic
 7 development income tax by a county shall be credited to that county's
 8 account in the state general fund. **The department shall establish a**
 9 **separate subaccount for a county that has imposed a county**
 10 **economic development income tax rate under section 5.5 of this**
 11 **chapter. Any revenue derived from the imposition of the county**
 12 **economic development income tax on corporations and pass**
 13 **through entities under section 5.5 of this chapter by a county shall**
 14 **be credited to that county's subaccount.**

15 (b) Any income earned on money credited to an account under
 16 subsection (a) becomes a part of that account. **Any income earned on**
 17 **money credited under subsection (a) to a county's subaccount**
 18 **becomes a part of that subaccount.**

19 (c) Any revenue credited to an account established under subsection
 20 (a) at the end of a fiscal year may not be credited to any other account
 21 in the state general fund.

22 SECTION 8. IC 6-3.5-7-11 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) Revenue
 24 derived from the imposition of the county economic development
 25 income tax shall, in the manner prescribed by this section, be
 26 distributed to the county that imposed it.

27 (b) Before July 2 of each calendar year, the department, after
 28 reviewing the recommendation of the budget agency, shall estimate and
 29 certify to the county auditor of each adopting county the **following:**

30 **(1) The** amount of county economic development income tax
 31 revenue, **excluding county economic development income tax**
 32 **revenue collected under a tax imposed under section 5.5 of**
 33 **this chapter,** that will be collected from that county during the
 34 twelve (12) month period beginning July 1 of that calendar year
 35 and ending June 30 of the following calendar year. The amount
 36 certified is the county's certified distribution, which shall be
 37 distributed on the dates specified in section 16 of this chapter for
 38 the following calendar year. The amount certified may be adjusted

under subsection (c) or (d).

(2) The amount of county economic development income tax revenue that will be collected from that county under a tax imposed under section 5.5 of this chapter during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the following calendar year. The amount certified is the county's business personal property tax replacement certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified may be adjusted under subsection (c) or (d).

(c) The department may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 10 of this chapter.

(d) The department may certify an amount less than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the budget agency, determines that a part of those collections need to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year."

Delete pages 2 through 4.

Page 5, delete line 1.

Page 9, delete lines 22 through 42, begin a new paragraph and insert:

"SECTION 12. IC 6-3.5-7-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 24. (a) This section applies only to a county that has adopted the economic development income tax for business personal property tax replacement under section 5.5 of this chapter.**

(b) As used in this section, "net property tax liability on business personal property" means the property taxes attributable to business personal property eligible for property tax replacement under this section that are due and payable as shown on the property tax statement sent to a person after all deductions and

1 credits, including the credits under IC 6-1.1-20.5 and IC 6-1.1-21,
2 have been applied under any other statute.

3 (c) As used in this section, "business personal property"
4 includes personal property as defined in IC 6-1.1-1-11.

5 (d) If the county council or county income tax council imposes
6 a county economic development income tax under section 5.5 of
7 this chapter, the county economic development income tax revenue
8 generated by the tax rate imposed under section 5.5 of this chapter
9 shall be used for property tax replacement purposes in the county
10 as specified in this section. The entity that imposes a tax under
11 section 5.5 of this chapter shall each year specify by ordinance the
12 types or classes of business personal property that are eligible for
13 property tax replacement under this section.

14 (e) The county treasurer shall establish a business personal
15 property tax replacement fund to be used only for the purposes
16 described in this section. The county's business personal property
17 tax replacement certified distributions shall be deposited in the
18 business personal property tax replacement fund and shall not be
19 included in the certified distributions made under section 12 of this
20 chapter.

21 (f) The county assessor shall determine the amount of each
22 property owner's assessed value that is attributable to the assessed
23 value of business personal property in the county that is eligible for
24 property tax replacement under this section. Before December 1 of
25 each year, the county assessor shall provide the county auditor
26 with the amount of assessed value of business personal property for
27 each taxpayer that is eligible for property tax replacement under
28 this section.

29 (g) The county auditor shall compute the amount of property
30 taxes in the county that is attributable to assessed value of business
31 personal property that is eligible for property tax replacement
32 under this section, as reported by the county assessor using the
33 same property tax liability that is used to calculate the property tax
34 replacement credit under IC 6-1.1-21-5 but after deducting the
35 property tax replacement credit and the personal property tax
36 reduction credit under IC 6-1.1-20.5.

37 (h) Before March 1 of each year, each county auditor shall
38 certify to the state board of tax commissioners the amount of

1 assessed value of business personal property that is eligible for
2 property tax replacement under this section and for which the
3 credit should be applied. Before March 15 of each year, the state
4 board of tax commissioners shall, based on the balance in the
5 county's business personal property tax replacement fund, certify
6 to the county auditor the amount of business personal property tax
7 replacement credits that will be provided to each taxpayer in the
8 county for the year. The percentage of the credit against property
9 taxes on eligible business personal property must be uniform
10 throughout the county. To the extent consistent with this section,
11 the credits shall be determined in the same manner as property tax
12 replacement credits are determined under IC 6-1.1-21 but after
13 deducting the property tax replacement credit and the personal
14 property tax reduction credit.

15 (i) The county auditor shall do the following:

16 (1) Apply the business personal property tax replacement
17 credit percentage under this section against the net property
18 tax liability on business personal property of each taxpayer in
19 the county that is eligible for property tax replacement under
20 this section.

21 (2) Distribute from the county's business personal property
22 tax replacement fund to each taxing unit in the county the
23 amount of business personal property tax replacement credits
24 allocated to the taxing unit for the year.

25 (j) A taxing unit shall treat property tax replacement credits
26 received during a particular calendar year under this section as a
27 part of the taxing unit's property tax levy for each fund for that
28 same calendar year for purposes of fixing the taxing unit's budget
29 and for purposes of property tax levy limits.

30 (k) For the purpose of computing and distributing certified
31 distributions under IC 6-3.5-1.1 and tax revenue under IC 6-5-10,
32 IC 6-5-11, IC 6-5-12, IC 6-5.5, or IC 6-6-5, the property tax
33 replacement credits that are received under this section shall be
34 treated as though they were property taxes that were due and

- 1 **payable during that same calendar year."**
- 2 Delete pages 10 through 11.
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 79 as printed March 2, 2001.)

and when so amended that said bill do pass.

Representative Bauer